

## **Senate Bill No. 370**

### **CHAPTER 300**

An act to amend Section 14133.8 of, to add Sections 14132.69 and 14132.71 to, and to repeal Sections 14132.5 and 14132.7 of, the Welfare and Institutions Code, relating to Medi-Cal.

[Approved by Governor October 5, 2007. Filed with  
Secretary of State October 5, 2007.]

#### **LEGISLATIVE COUNSEL'S DIGEST**

SB 370, Kuehl. Medi-Cal: organ and bone marrow transplants.

Existing law establishes the Medi-Cal program, administered by the State Department of Health Care Services, under which basic health care services are provided to qualified low-income persons. Existing law authorizes the department to implement utilization controls through the establishment of guidelines, protocols, algorithms, or criteria for drugs, medical supplies, durable medical equipment, and enteral formulae.

Under existing law, liver, heart, and bone marrow transplant and donor surgeries are covered as reimbursable services under the Medi-Cal program.

This bill would repeal these provisions as to liver and heart transplant and donor surgeries, and would instead, require all donor and recipient organ transplant surgeries to be covered under the Medi-Cal program when an organ transplant is provided to a beneficiary who is eligible for full-scope benefits in a medical facility that meets the requirements of, and is approved by, the department. The bill would also require all donor and recipient organ and bone marrow transplant surgeries that are authorized by the department pursuant to these provisions to be subject to utilization controls.

This bill would require the department, for purposes of donor and recipient organ transplant surgeries, to establish standards as to both the circumstances and the criteria that the department will use for approving facilities and personnel for organ transplants eligible for receiving reimbursement under the Medi-Cal program.

*The people of the State of California do enact as follows:*

**SECTION 1.** The Legislature finds and declares that a number of serious problems have recently occurred in several organ transplant programs in California.

(a) The Legislature further finds and declares that these problems highlight the need to require transplant centers to operate in a manner that best assists both those who are receiving transplants and those who are

awaiting transplants, as well as organ donors and affected families, and also to make certain that proper expertise is available to accomplish these goals.

(b) It is the intent of the Legislature in enacting this act to ensure that local, state, and federal money continues to be efficiently spent, patients are protected, and that the State Department of Health Care Services further develops clarifying guidelines as they continue to implement and administer their existing utilization controls for organ transplants.

SEC. 2. Section 14132.5 of the Welfare and Institutions Code is repealed.

SEC. 3. Section 14132.69 is added to the Welfare and Institutions Code, to read:

14132.69. (a) Notwithstanding any other provision of law, donor and recipient organ transplant surgeries are covered under the Medi-Cal program when an organ transplant is provided to a beneficiary who is eligible for full-scope benefits under this chapter in a medical facility that meets the requirements of, and is approved by, the department.

(b) Any donor or recipient organ transplant surgeries authorized by the department pursuant to this chapter are subject to utilization controls.

(c) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department may implement, interpret, or make specific this section by means of all-county letters, provider bulletins, or other instructions, without taking any further regulatory action.

(d) This section shall not apply to Section 14133.8.

SEC. 4. Section 14132.7 of the Welfare and Institutions Code is repealed.

SEC. 5. Section 14132.71 is added to the Welfare and Institutions Code, to read:

14132.71. (a) For purposes of donor and recipient organ transplant surgeries, the department shall establish standards as to both the circumstances and the criteria that the department will use for approving facilities eligible for receiving reimbursement under the Medi-Cal program.

(b) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department may implement, interpret, or make specific this section by means of all-county letters, provider bulletins, or other instructions, without taking any further regulatory action.

SEC. 6. Section 14133.8 of the Welfare and Institutions Code is amended to read:

14133.8. (a) A bone marrow transplant for the treatment of cancer for beneficiaries who are eligible for full-scope benefits under this chapter, shall be reimbursable under this chapter, when all of the following conditions are met:

(1) The bone marrow transplant is recommended by the recipient's physician.

(2) The bone marrow transplant is performed in a hospital that is approved for participation in the Medi-Cal program.

(3) The bone marrow transplant is a reasonable course of treatment and is approved by the hospital medical policy committee when there is an existing committee or a committee can be established.

(4) The bone marrow transplant has been deemed appropriate for the recipient by the program's medical consultant. The medical consultant shall not disapprove the bone marrow transplant solely on the basis that it is classified as experimental or investigational.

(b) The program shall provide reimbursement for both donor and recipient surgery.

(c) The department may establish inpatient rates of reimbursement not in accordance with the state plan for those hospitals not under contract with the state pursuant to Article 2.6 (commencing with Section 14081), provided that the state plan is subsequently amended to reflect the method of reimbursement.

(d) This section shall not be construed as prohibiting reimbursement for any bone marrow transplants otherwise provided for under this chapter.

(e) Any bone marrow transplant authorized by the department pursuant to this section shall be subject to utilization controls.

(f) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department may implement, interpret, or make specific this section by means of all-county letters, provider bulletins, or other instructions, without taking any further regulatory action.